**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**
**SECOND APPEAL NO.201 OF 2006**

Laxmibai Sitaram More ...Appellant

vs.

Vijay Sitaram More & Ors. ...Respondents

Mr.A.G.Kundekar for the Appellant

**CORAM: A.S.OKA, J.**
**DATED: MARCH 16, 2006.**

**P.C.:**

1. Heard learned Advocate for the Appellant. The Appellant is the Defendant No.1. The Respondent No.1 to 3 are the original Plaintiffs. The suit filed by the Respondent Nos.1 to 3 has been decreed by holding that the Respondent Nos.1 to 3 are having one half share in the suit property and they are entitled to partition and separate possession of their share. The Trial Court also held that the Appellant and the Respondent Nos.4 and 5-original Defendant No.2 and 3 are having one half share in the property.

2. The learned Advocate for the Appellant submitted that in so far as the land bearing Survey No.129 Hissa No.B is concerned, the Appellant-Defendant No.1 has produced the sale deed which shows that she purchased the said property from one Manik Gotad. He pointed out that the sale deed was duly proved and the original Plaintiff has no right,title, interest in respect of the said property.

3. I have considered the submissions. The Courts below have found that though the sale deed executed by one Manik Gotad in favour of the Appellant was duly proved, there was nothing on record to show that the said Manik Gotad was the owner of the property in question. The said Manik was also examined as a witness. He could not produce any document showing that he was the owner of the suit property or even any document to show that his name was entered in the revenue record. The Courts below found that the husband of the Appellant and the father of the Respondent Nos.1 to 3 was a tenant of the said property and he had a house on the said property. As the appellant could not establish that her predecessor-in-title was the owner of the property, claim of exclusive ownership of the Appellant has been rejected by the Courts below.

4. In my view, the said finding recorded by the Courts below cannot be interfered with as it is based on the oral and documentary evidence on record. No substantial question of law arises. Second Appeal is dismissed with no order as to costs.

**Judge.**